### BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

THOMAS G. STARFORTH III Claimant	)
VS.	) ) )
KPL GAS SERVICE/WESTERN RESOURCES, INC Respondent Self-Insured	) ) )
AND	)
KANSAS WORKERS COMPENSATION FUND	) )

# ORDER

On the 8th day of February, 1996, the application of the respondent for review by the Workers Compensation Appeals Board of an Award entered by Administrative Law Judge Steven J. Howard on October 24, 1995, came on for oral argument.

#### **A**PPEARANCES

Claimant appeared by and through his attorney, Daniel L. Smith of Overland Park, Kansas. Respondent and its insurance carrier appeared by and through their attorney, T. L. Green of Topeka, Kansas. The Kansas Workers Compensation Fund appeared by and through its attorney, Jerry R. Shelor of Topeka, Kansas. There were no other appearances.

#### RECORD

The record as specifically set forth in the Award of the Administrative Law Judge is herein adopted by the Appeals Board.

#### STIPULATIONS

The stipulations as specifically set forth in the Award of the Administrative Law Judge are herein adopted by the Appeals Board. In addition, the respondent advised the Appeals Board that it did not intend to seek review of the issue involving the liability of the Kansas Workers Compensation Fund and, as such, continued involvement of the Kansas Workers Compensation Fund in this matter was unnecessary. The Fund, at the time of

oral argument, was dismissed by the Appeals Board with the Fund agreeing to be responsible for its own attorney fees.

#### **I**SSUES

- (1) Whether claimant suffered accidental injury arising out of and in the course of his employment with the respondent and, if so, was notice of the injury timely made?
- (2) Can claimant supplement the record after his terminal date without complying with K.S.A. 44-523.
- (3) If claimant has suffered permanent partial impairment as a result of said injury, what is the nature and extent of said disability?
- (4) Has respondent paid the maximum amount allowed for unauthorized medical on behalf of the claimant?

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire evidentiary record, and in addition the stipulations of the parties, the Appeals Board makes the following findings of fact and conclusions of law:

In reviewing the Award of the Administrative Law Judge the Appeals Board finds it both accurate and complete in analyzing the facts and in reaching conclusions of law regarding the issues in this matter. Finding it unnecessary to restate same, the Appeals Board, in adopting the Award of the Administrative Law Judge, incorporates same by reference in this Award as if fully set forth herein.

In adopting the opinion of Dr. Dale Darnell and awarding claimant a fourteen percent (14%) functional impairment to the body as a whole, the Administrative Law Judge has appropriately concluded claimant's entitlement to benefits in this matter. The Appeals Board, in adopting same, finds claimant to have a fourteen percent (14%) whole body permanent partial functional impairment as a result of the injuries suffered with the respondent on February 28, 1994.

#### **AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Steven J. Howard dated October 24, 1995 shall be, and is hereby, affirmed in all respects and the Appeals Board adopts same in toto as though fully set forth herein.

II IS SO ORDERED.	
Dated this	day of February 1996.

BOARD MEMBER

# BOARD MEMBER

# BOARD MEMBER

c: Daniel L. Smith, Overland Park, Kansas T. L. Green, Topeka, Kansas Jerry R. Shelor, Topeka, Kansas Steven J. Howard, Administrative Law Judge Philip S. Harness, Director